

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

DAVID SAMBRANO, ET AL.,

Plaintiffs,

v.

No. 4:21-cv-1074-P

UNITED AIRLINES, INC.,

Defendant.

ORDER

Before the Court is Defendant's Renewed Motion for Partial Dismissal of the Second Amended Complaint. ECF No. 209. Having considered the Motion, the Court determines supplemental briefing is necessary regarding the timeliness of several plaintiffs' EEOC charges.

United argues that plaintiffs Rains, Castillo, and Medlin did not timely file EEOC charges within 300 days of the alleged unlawful employment action. *See* ECF No. 209 at 16. Plaintiffs argue that their initial online inquiry forms, submitted to the EEOC, should constitute a charge under *Federal Express Corp. v. Holowecki*. *See* ECF No. 213 at 17 (citing 552 U.S. 389, 402 (2008) (holding any filing may be deemed a charge if it can be "reasonably construed as a request for the agency to take remedial action to protect the employee's rights or otherwise settle a dispute between the employer and the employee"))). This is an objective standard based on a review of the filing. *See Holowecki*, 552 U.S. at 402.

"A review of the case law in this circuit applying *Holowecki* demonstrates courts analyzing intake questionnaires [or other preliminary EEOC filings] and any accompanying documents consistently identify a specific statement indicating a request to act when they deem a particular filing a charge." *Freeland v. Coors of Austin, L.P.*, No. A-14-CA-443-SS, 2015 WL 4744362, at *8 (W.D. Tex. Aug. 10, 2015) (Sparks, J.) (collecting cases). But in cases "where there is an absence of any statement indicating a request for remedial action,

courts in this circuit have held the [filing] is not a charge and dismissed the plaintiff's claims." *Id.*

Accordingly, the Parties are **ORDERED** to submit supplemental briefing **on or before December 7, 2023** regarding the timeliness of Rains', Castillo's, and Medlin's EEOC charges. The Parties should address whether these plaintiffs' online inquiry forms or other timely-submitted EEOC filings contain a "specific statement indicating a request to act" such that their filings may be deemed a charge under *Holowecki*. *Id.* The Parties' briefs must be limited to 10-pages.

SO ORDERED on this **28th day of November 2023**.

A handwritten signature in black ink, reading "Mark T. Pittman". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Mark T. Pittman

UNITED STATES DISTRICT JUDGE